

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 38737 of 2021**

Arising Out of PS. Case No.-670 Year-2020 Thana- FORBESGANJ District- Araria

SARVJIT KUMAR MANDAL @ SARBJIT MANDAL S/o Ajay Mandal @
Ajay Kumar Mandal R/o village- Madhubani, Ward No.- 08, P.S.- Forbesganj,
District- Araria

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Anil Prasad Singh, Advocate

For the Opposite Party/s : Mr Aditya Narayan Singh I, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 30-05-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, *APP*) appearing for
the State of Bihar.

The petitioner apprehends arrest in Forbesganj Police
Station (for brevity, *PS*) Case No 670 of 2020 registered for the
offence punishable under Sections 341, 323, 307, 379, 354,
354B, 504, 506/34 of Indian Penal Code.

Eight named persons, variously armed, surrounded the
informant due to some earlier dispute and started abusing her.
On protest being raised, she has been assaulted by co-accused
Ajay Mandal who has also tried to disrobe her. When her
brother-in-law Satya Narain Mandal came to rescue, it is alleged
that the petitioner has assaulted him. There is allegation of
assault against other accused persons also and of taking away



ornaments worth Rs 25,000/-.

Petitioner's counsel submits that the First Information Report (for brevity, *FIR*) has been lodged after much delay, i.e., on 13.08.2020 in respect of an occurrence which is alleged to have taken place on 26.07.2020. This itself renders the prosecution case unsustainable. The petitioner has no criminal antecedent and the injury report in respect of the injury, sustained by Satya Narain Mandal, opines the injury to be simple. It is further submitted that in fact, the accused persons of the instant case are the victims who have sustained assault at the hands of the informant of the instant case for which Forbesganj PS Case No 663 of 2020 was lodged against the prosecution party of the instant case, prior to lodging of the instant case in which the petitioner and others have been made accused.

The learned APP has opposed the prayer for bail.

Considering the rival submissions, clean antecedent, delay in lodging the FIR as also the fact that there is a counter case, wherein the prosecution parties are accused, this Court, for the purposes of grant of bail, is, thus, inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, in the event of



his arrest or surrender within four weeks from today, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Araria in Forbesganj PS Case No 670 of 2020 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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